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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,147	09/08/2003	Takashi Maeda	242519US0CONT	1370
22850 7590 08/21/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER HENDRICKSON, STUART L	
			ART UNIT 1754	PAPER NUMBER
			NOTIFICATION DATE 08/21/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/27/2006	PAPER	

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/656147

EXAMINER

ART UNIT	PAPER
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20061130

DATE MAILED:

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Commissioner for Patents

The reply filed on 10/19/06 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The requested references have not been provided. Hence, the record is not complete. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

Stuart Hendrickson
examiner Art Unit 1754



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/656,147
Filing Date: September 08, 2003
Appellant(s): MAEDA ET AL.

Charles Andres
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/19/06 appealing from the Office action mailed 6/28/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

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(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6118650	Maeda et al.	9-2000
5439756	Anani et al.	8-1995
5030523	Neat et al.	7-1991

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. 6118650 taken with Anani et al. 5439756 and Neat et al. 5030523 and applicant's admissions.

Maeda teaches in columns 7, 8, 11 and 12, making the claimed capacitor. This differs in not teaching the details of the use and construction of the battery/cell, however applicant admits on specification pg. 33 that these details are old and known. The examiner takes Official Notice that these specific techniques are old and known, as is the discharge/charge under constant current.

It is noted that Neat teaches in column 3 charging a cell to 3.25 volts, and a carbon containing material. Anani teaches in col. 4 a charging scheme which can be varied according to the system, what appears to be the same electrode synthesis and an active carbon material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the techniques of the additional references in the process of Maeda because doing so exploits the properties of the carbon material made and prepares the cell for use.

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Concerning claims 12, 13, column 4 indicates that the claimed values are overlapped by the reference. Although most of the examples report an area greater than 1000, it is noted that this can be optimized to the values of column 4 by varying the time of activation. Concerning claims 17, 21 and 22, using organic nonaqueous electrolyte is an obvious expedient to do chemistry on organic materials, while immersing the electrodes is an obvious expedient to permit current to flow and the reagents to contact each other for normal operation.

(10) Response to Argument

The supporting references teach the claimed charging/discharging at constant current. The parenthetical note at the bottom of pg. 4 is noted, however in response the claims do not exclude the repeated cycles experienced during normal use. The claims are open to these cycles and there is no confusion because the open language of the claims excludes nothing. Page 5 of the Brief implies unexpected results; however these are not claimed or demonstrated. Nor do the claims require any minimum charge maintenance or performance. On pg. 6 is a synopsis of the supporting references. Maeda teaches treating the carbon materials at about 3V (col. 10), so the effect appears to be gained; thus the treatment at 3V is in fact taught by Maeda.

Concerning claim 11, the secondary references teach details of the current/charging/cell; thus it is explicitly taught. The Final Rejection never stated that 'charging is admitted old and known'; this statement is in the 'Official Notice' section and not in the 'admissions' section. Thus the arguments are irrelevant, especially as the references teach the claimed features and admissions have been made as to what is old and known. All claim elements are taught or suggested or admitted as old and known.

The references are combinable because Maeda teaches a material for an electrode and the other references teach how electrodes are used. The argument that the charging is done for a different purpose by the references is not persuasive; In re Dillon 16 USPQ 2d 1897. The

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references need not discuss what inherently happens to the carbon during the charging. The alleged unproven superior qualities are not claimed. The argument at the bottom of pg. 10 is incorrect: an evaluation does not have to be distinguished from the preparation, as long as the references teach the claimed steps in the claimed order.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Stuart Hendrickson
examiner Art Unit 1754

Conferees:  Stanley Silverman

 Kathryn Gorgos